

**Amendment and Response**

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Applicant: Boldogh et al.

Serial No.: 10/691,330

Filed: October 22, 2003

Title: USE OF COLOSTRININ, CONSTITUENT PEPTIDES THEREOF, AND ANALOGS THEREOF AS INHIBITORS OF APOPTOSIS AND OTHER CELLULAR DAMAGE

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**Remarks**

The Office Action mailed December 20, 2005, has been received and reviewed. Claim 8 having been amended and claims 7 and 9-11 having been canceled, without prejudice, the pending claims are claims 1-6, 8, and 12-15. Reconsideration and withdrawal of the rejections are respectfully requested.

**Interview Summary**

An Interview was conducted on November 15, 2005, between Patent Examiner Chih-Min Kam, Supervisory Patent Examiner Kathleen Kerr, and Applicants' Representative, Nancy Johnson. The statements provided by the Examiner in the interview summary mailed December 20, 2005 form a complete and accurate record of this interview. No agreement was reached.

**The Objection to the Specification**

The Examiner objected to the specification, as containing various informalities. The Examiner objected to page 17, line 30, of the specification for reciting an amino acid sequence without a sequence identifier, as required by 37 CFR 1.821-1.825. Applicants submit that this objection is moot in view of the amendment of the specification to delete the recitation of the amino acid sequence "SFMMT\*PY\*VVTRYR." The Examiner also objected to the recitations of "Table 1A," "Table 1B," and "Table 1C" on page 25, line 16, page 25, line 21, and page 26, line 17, of the specification, respectively. Applicants submit that this objection is overcome in view of the amendment of the specification to recite "Table 1," rather than "Table 1A," "Table 1B," and "Table 1C." Reconsideration and withdrawal of the objection to the specification is requested.

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**The 35 U.S.C. §112, Second Paragraph, Rejection**

The Examiner rejected claims 7 and 9-11 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, the Examiner asserted that claims 7 and 9-11 have the same scope as claims 1-4, respectively. Applicants submit that this rejection is moot in view of the cancellation of claims 7 and 9-11. Reconsideration and withdrawal of this rejection of claims 7 and 9-11 under 35 U.S.C. §112, second paragraph, is respectfully requested.

**The 35 U.S.C. §102(e) Rejection**

The Examiner rejected claims 1-6, 8, and 12-15 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,903,068 (Stanton et al.). This rejection is respectfully traversed. Specifically, the Examiner asserted that U.S. Patent No. 6,903,068 teaches methods that are the same as the methods of claims 1-6, 8, and 12-15. Applicants disagree.

As supported by the Declaration under CFR § 1.132 of Nancy A. Johnson, filed herewith, Applicants submit that the information printed in issued U.S. Patent No. 6,903,068 contains substantial errors and does not correctly represent the information taught by this patent.

As supported by the Declaration under CFR § 1.132 of Nancy A. Johnson, filed herewith, Applicants submit that, because of the substantial errors in issued U.S. Patent No. 6,903,068, one must look only to the application itself, U.S. Patent Application No. 09/641,801, for a correct representation of what is taught by U.S. Patent No. 6,903,068.

A copy of U.S. Patent Application No. 09/641,801 is included herewith as Exhibit A. Applicants submit that a review of U.S. Patent Application No. 09/641,801 indicates that the Stanton et al. patent does not teach that colostrinin is an inhibitor of apoptosis in neural-derived cells, as asserted by the Examiner (page 4, Office Action mailed December 20, 2006). Reconsideration and withdrawal of the rejection of claims 1-6, 8, and 12-15 under 35 U.S.C. §102(e) as anticipated by U.S. Patent No. 6,903,068 (Stanton et al.) is respectfully requested.

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**Summary**

It is respectfully submitted that the pending claims 1-6, 8, and 12-15 are in condition for allowance and notification to that effect is respectfully requested. The Examiner is invited to contact Applicants' Representatives, at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted

By

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March 20, 2006  
Date

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**CERTIFICATE UNDER 37 CFR §1.10:**

"Express Mail" mailing label number: EV 201894274 US Date of Deposit: March 20, 2006

The undersigned hereby certifies that this paper is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR §1.10 on the date indicated above and is addressed to **Mail Stop Amendment**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

By: Sam E. Wigant  
Name: Sam E. Wigant

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